

Message Text

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ACTION COA-02

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SS-15 USIA-15 ACDA-19 AGR-20 SCI-06 EPA-04 DRC-01

DLOS-06 EUR-25 /225 W

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FM AMEMBASSY QUITO

TO SECSTATE WASHDC 8796

INFO AMEMBASSY LIMA

AMCONSUL GUAYAQUIL

C O N F I D E N T I A L SECTION 1 OF 2 QUITO 5173

E.O. 11652: GDS

TAGS: PBOR, EFIS, EC

SUBJECT: ECUADOREAN FISHERIES LEGISLATION: NEW AND
FORTHCOMING DECREES

REF: QUITO 1120; QUITO 1382; QUITO 2525

1. SUMMARY: IN ANOTHER STEP TOWARDS AN EXCLUSIVE FISHING
ZONE, THE GOE HAS ISSUED A NEW FISHERIES DECREE ESTABLISHING
THE PRINCIPLE OF TUNA QUOTAS FOR FOREIGN FLAG VESSELS
FISHING IN ECUADOREAN-CLAIMED WATERS. THE LAW IS
JUSTIFIED IN PART ON CONSERVATION GROUNDS AND GIVES
FIRST PREFERENCE TO ECUADOREAN SHIPS. THE DRAFT GENERAL
FISHERIES LAW IS MOVING FORWARD AND IS SAID TO CONTAIN
PROVISIONS FOR INCREASED FINES AND CONFISCATION OF
CATCH FOR UNLICENSED BOATS. END SUMMARY.

2. NEW LEGISLATION: THE GOE HAS ISSUED A NEW DECREE
CONCERNING TUNA FISHING. IT IS NUMBER 1050 AND WAS
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PUBLISHED IN THE OFFICIAL REGISTER OF SEPTEMBER 12, 1973.

MOST OF THE LAW IS CONCERNED WITH THE REGULATION OF THE ECUADOREAN-BASED TUNA INDUSTRY TO PROVIDE A MORE STABLE DOMESTIC SUPPLY OF AND MARKET FOR TUNA. HOWEVER, ONE PART OF THE DECREE (ARTICLE 1, SECTION 6, SUBSECTION 13) ESTABLISHES THE PRINCIPLES OF A) A LIMITATION ON TUNA CATCH WITHIN ECUADOREAN-CLAIMED WATERS, B) FISHING PREFERENCE FOR THE ECUADOREAN-BASED INDUSTRY WITHIN THAT LIMIT AND C) QUOTAS FOR THE REMAINDER OF THE TUNA FOR FOREIGN FLAG FISHERMEN THROUGH THE LICENSING PROCESS.

3. AN EMBASSY TRANSLATION OF SUBSECTION 13 FOLLOWS (THE TEXT OF THE DECREE WILL BE POUCHED):

ARTICLE 1, SECTION 6, SUBSECTION 13: "THE SUBSECRETARIAT OF FISHERIES OF THE MINISTRY OF NATURAL RESOURCES AND ENERGY IS AUTHORIZED TO ESTABLISH QUOTAS FOR THE CATCHING OF TUNA BY FOREIGN FLAG VESSELS FROM THE BALANCE OF THE FISHING RESOURCES LEFT OVER AFTER THEY HAVE BEEN USED BY THE NATIONAL TUNA FLEET. TO THIS END, THE SUBSECRETARIAT SHALL REQUEST THE MINISTRY OF FOREIGN RELATIONS TO INSTRUCT THE (ECUADOREAN) CONSULATES TO ISSUE (FISHING) PERMITS (PERMISOS) ONLY ON THE BASIS OF THE AVAILABLE RESOURCES AND IN DETERMINING THE QUOTAS TO TAKE INTO ACCOUNT THE NATIONALITY OF THE VESSELS, THEIR LOAD CAPACITY, AND OTHER FACTORS THAT MAY BE CONSIDERED TO BE OF IMPORTANCE."

"WHENEVER SUCH ACTION IS CONSIDERED ADVISABLE, NO FISHING PERMITS WILL BE ISSUED TO FOREIGN FLAG VESSELS."

4. EMBOFF AND NAVATT DISCUSSED THIS DECREE AND THE FORTHCOMING GENERAL FISHERIES LAW WITH NAVY COMMANDER RODRIGO RIVADENEIRA, THE UNDER SECRETARY (SUB-SECRETARIO) FOR FISHERIES OF THE MINISTRY OF NATURAL RESOURCES ON SEPTEMBER 24. EMBOFFS AGAIN DISCUSSED IT WITH HIM ON SEPTEMBER 25.

5. DATE OF IMPLEMENTATION OF DECREE 1050: RIVADENEIRA SAID THAT THE DECREE IS NOW FORMALLY IN FORCE BUT WILL NOT BE IMPLEMENTED UNTIL JANUARY 1, 1974 BECAUSE THERE CONFIDENTIAL

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IS NOT ENOUGH TIME BETWEEN NOW AND THE FALL FISHING SEASON TO ADVISE THE FOREIGN FISHERMEN AND BECAUSE THE FORTHCOMING GENERAL FISHERIES LAW PROVIDES MANY IMPLEMENTING DETAILS. THAT LAW, ACCORDING TO RIVADENEIRA, WILL PROBABLY NOT APPEAR FOR ABOUT A MONTH.

6. FISHING QUOTAS FOR FOREIGN VESSELS: RIVADENEIRA SAID THAT THE QUOTAS WERE ANNUAL AND INCLUDED BOTH

YELLOW FIN AND SKIPJACK TUNA. HE SAID THEY WOULD PROBABLY BE IMPLEMENTED JANUARY 1, 1974. RIVADENEIRA EMPHASIZED THE CONSERVATION PURPOSE OF THE GOE SAYING THAT IT BELIEVES THAT 80,000 TONS OF TUNA (OUT OF A POSSIBLE 100,000 TONS) MAY SAFELY BE CAUGHT ANNUALLY IN ECUADOREAN-CLAIMED WATERS WITHOUT ENDANGERING THE SPECIES. (THE ECUADOREAN FOREIGN MINISTER ALSO STRESSED CONSERVATION OF THE SEAS'S LIVING RESOURCES IN HIS REMARKS TO THE UNGA SEPTEMBER 24.) RIVADENEIRA CLAIMED THAT ECUADOR HAS A TUNA FISHING CAPACITY OF 40,000 TONS AND THAT THEREFORE THE BALANCE OF 40,000 TONS WOULD BE AVAILABLE FOR FOREIGN FISHING UNDER THE PRINCIPLE OF QUOTAS ESTABLISHED IN DECREE 1050.

7. ECUADOREAN FISHING CAPACITY: WHEN ASKED TO EXPLAIN SUCH A HIGH ECUADOREAN FISHING CAPACITY, RIVADENEIRA REPLIED THAT IT WAS THE POLICY OF THE GOE TO ENABLE ITSELF TO EXPLOIT ITS TUNA RESOURCES AS RAPIDLY AS POSSIBLE. TO THIS END THE FISHING COMPLEX IS PLANNED. HOWEVER, IT WILL BE AT LEAST TWO YEARS UNTIL IT IS BUILT (STARKIST IS THE US CONTENDER IN THE BIDDING FOR THE COMPLEX) AND THAT IN ORDER NOT TO LOSE FISH UNTIL THEN THE GOE (THROUGH THE STATE FISHING CORPORATION) IS ENGAGED IN TEMPORARILY INCREASING THE ECUADOREAN FISHING CAPACITY BY SEEKING OUT FOREIGN (PRINCIPALLY US) FISHING COMPANIES AND ENTERING INTO TEMPORARY ASSOCIATION AGREEMENTS WITH THEM. SUCH SHIPS DO NOT NEED TO OBTAIN THE USUAL LICENSES SINCE THEY ARE FISHING FOR THE GOE. CAPTAIN RIVADENEIRA SAID THAT HE THOUGHT THAT THE SERVICES OF 8 PURSE SEINERS HAD BEEN OBTAINED THIS WAY SO FAR AND THAT THE GOE EXPECTED TO ENTER THE FALL 1973 SEASON WITH POSSIBLY 20 PURSE SEINERS OF AN AVERAGE SIZE OF 250 NET REGISTERED TONS. THIS WORKS OUT TO AN AVERAGE
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FLEET CAPACITY OF 5,000 TONS FOR ONE VOYAGE. HENCE 8 TRIPS WOULD BE NECESSARY TO CATCH 40,000 TONS. THIS IS NOT UNREASONABLE IF THE FISHING IS GOOD SINCE THE BOATS WOULD BE GOING TO AND FROM ECUADOREAN PORTS. AT TIME OF CONVERSATIONS RIVADENEIRA MAY NOT HAVE BEEN FULLY AWARE OF DIFFICULTIES ECUADOREAN FIRM PRODUCTOS DEL MAR ENCOUNTERING IN THE CHARTER OF TWO US FLAG TUNA VESSELS (SEE GUTHRIE-CHAPLIN OFFICIAL INFORMAL OF SEPTEMBER 28), AND THIS DEVELOPMENT MAY, OF COURSE, IMPACT UNFAVORABLY ON GOE PLANS.
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INFO OCT-01 ARA-16 ISO-00 IO-15 EB-11 INT-08 COME-00 AID-20

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8. ACCORDING TO INFORMATION OBTAINED SEPTEMBER 28, 1973 FROM THE ECUADOREAN NATIONAL FISHING INSTITUTE IN GUAYAQUIL, ECUADOR DOES HAVE THE THEORETICAL CAPACITY TO PROCESS 40,000 TONS OF TUNA. THE INSTITUTE REPORTS THAT THE ECUADOREAN-BASED TUNA INDUSTRY HAS A DAILY FREEZING CAPACITY OF 1,320 TONS (INCLUDING 280 TONS ON SHIPS) AND A COLD STORAGE CAPACITY OF 10,205 TONS. THIS WORKS OUT TO A ONE WEEK STORAGE CAPACITY AT THAT RATE OF FREEZING. IN ADDITION THERE IS A 200 TON PER 8 HOUR DAY CANNING CAPACITY. THIS CAPACITY CAN BE INCREASED BY ADDING SHIFTS. A THREE SHIFT REGIME WOULD WORK OUT TO 618 TONS PER DAY. THE MAXIMUM POSSIBLE PROCESSING CAPACITY WOULD BE THE SUM OF THE FREEZING AND CANNING CAPACITY OR ALMOST 3,000 TONS PER DAY. AT THAT RATE 40,000 TONS COULD BE PROCESSED IN 2 WEEKS PROVIDED THAT THE FISH COULD BE SHIPPED FAST ENOUGH SO AS NOT TO EXCEED STORAGE CAPACITY.

9. DESPITE THIS THEORETICAL CAPACITY, IT SHOULD BE

POINTED OUT THAT OVER THE PAST 5 YEARS THE AVERAGE

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ECUADOREAN CATCH HAS BEEN 20,000 TONS (30,000 TONS IN 1971). A SUDDEN JUMP TO 40,000 TONS WOULD REPRESENT A DRASTIC INCREASE IN WORK LOAD AND INITIALLY WOULD PROBABLY CREATE IMPORTANT PROBLEMS OF MAINTENANCE AND HANDLING.

10. THE FORTHCOMING FISHERIES LAW: CAPTAIN RIVADENEIRA

TOLD US THAT HE AND AMBASSADOR JUAN ISAAC LOVATO, PRESIDENT OF THE LEGISLATIVE COMMISSION, FORMERLY ECUADOREAN AMBASSADOR TO MOSCOW AND A MEMBER OF THE UNIFIED SOCIALIST PARTY, WERE HANDLING THE PROPOSED FISHERIES LAW AND THAT IT OUGHT TO REACH THE PRESIDENT WITHIN SEVERAL WEEKS. IN RESPONSE TO QUESTIONING, RIVADENEIRA SAID THAT THE PROPOSED LAW HAD SEVERAL NEW AND IMPORTANT PROVISIONS:

A) LICENSE FEES (AND THEREFORE FINES) WOULD BE INCREASED IN PROPORTION TO THE RISE IN THE PRICE OF TUNA FISH SINCE THE PRESENT FEES WERE ESTABLISHED. RIVADENEIRA SAID THAT THE PRESENT \$20 PER NET REGISTERED TON LICENSE FEE WAS FIXED WHEN TUNA WAS SELLING FOR \$250 PER TON. IT IS NOW SELLING FOR AROUND \$500 PER TON, HE SAID. THEREFORE IT IS POSSIBLE THAT THE FEES MAY DOUBLE. FINES ARE OF COURSE MULTIPLES OF THE LICENSE FEES.

B) PENALTIES FOR NON-PURCHASE OF LICENSES: RIVADENEIRA TOLD US THAT THE NEW LAW CONTEMPLATED THE CONFISCATION OF THE CATCH OF FOREIGN FLAG VESSELS FISHING WITHOUT LICENSES.

C) QUOTAS AND LICENSES: AFTER JANUARY 1, 1974 ALL FISHING LICENSES WILL HAVE TO BE PURCHASED IN ECUADOR AND NOT FROM ECUADOREAN POSTS ABROAD. THIS IS TO PERMIT THE RATIONAL ASSIGNMENT OF FISHING QUOTAS THROUGH THE LICENSING PROCESS. HENCE US FISHERMEN WILL PROBABLY NEED TO OBTAIN SOME KIND OF LEGAL REPRESENTATION IN ECUADOR IF THEY SHOULD WISH TO BUY LICENSES.

11. COMMENT: THE DECREE MAKES FORMAL WHAT WE HAVE BEEN HEARING AND REPORTING FOR SOME TIME: IT ESTABLISHES IN CONFIDENTIAL

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ECUADOREAN LAW THE PRINCIPLES OF A) A LIMIT ON TUNA FISHING OFF ECUADOR BASED ON THE NEED FOR CONSERVATION OF THE SPECIES, B) PREFERENCE FOR THE ECUADOREAN-BASED TUNA INDUSTRY WITHIN THAT LIMIT, AND C) ANNUAL QUOTAS FOR FOREIGN FLAG FISHING FOR THE TUNA THE ECUADOREAN

INDUSTRY DOES NOT HAVE THE CAPACITY TO CATCH.

12. THE PROMULGATION OF THIS DECREE EMPHASIZES THE DETERMINATION OF THE GOE TO EXPLOIT ITS CLAIMED RESOURCES. MORE IMPORTANTLY, IT UNDERLINES THE CHANGED NATURE OF THE US-ECUADOREAN FISHERIES PROBLEM: THE ISSUE IS NOW ONE OF ACCESS TO WHAT IS APPARENTLY DEVELOPING INTO AN INCREASINGLY EXCLUSIVE FISHERY ZONE RATHER THAN HOW TO FINESSE THE ECUADOREAN AND US LEGALITIES SURROUNDING

THE PURCHASE OF ECUADOREAN FISHING LICENSES FOR A DISPUTED AREA.

13. THE NEW DECREE MAKES THE ISSUE OF ACCESS CLEAR IN THE FINAL PARAGRAPH OF THE QUOTED SECTION WHEN IT ANTICIPATES THAT THE TIME MAY COME WHEN NO FOREIGN FLAG LICENSES WILT BE GRANTED SINCE ECUADOR WILL HAVE ACHIEVED THE NECESSARY FISHING AND PROCESSING CAPACITY. THIS POINT WAS ALSO MADE BY THE ECUADOREAN FOREIGN MINISTER IN HIS SPEECH TO THE UNGA SEPTEMBER 24 WHEN HE ASSERTED THAT A COASTAL STATE HAS THE RIGHT TO RESERVE TO ITSELF OR ITS NATIONELS THE "EXPLOITATION OF THE TOTALITY OF THE RESOURCES IN THE MARITIME ZONE OVER WHICH IT HOLDS SOVEREIGNTY AND EXERCISES JURISDICTION"

14. FURTHER
COMMENTS AND PROPOSALS FOLLOW SEPTTEL.
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